

and there are no other contractual remedies, the contracting officer—

(i) Shall notify the contractor in writing of the nonconforming material or service;

(ii) Shall request that the contractor repair or replace the material, or perform the service, at no cost to the Government; and

(iii) May accept consideration if offered. For guidance on solicitation of a refund, see subpart 242.71.

(S-70) The head of the design control activity is the approval authority for acceptance of any nonconforming aviation or ship critical safety items or nonconforming modification, repair, or overhaul of such items (see 209.270). Authority for acceptance of minor nonconformances in aviation or ship critical safety items may be delegated as determined appropriate by the design control activity. See additional information at PGI 246.407.

[56 FR 36460, July 31, 1991, as amended at 67 FR 4208, Jan. 29, 2002; 69 FR 55989, Sept. 17, 2004; 70 FR 57190, Sept. 30, 2005; 73 FR 1828, Jan. 10, 2008]

246.408 Single-agency assignments of Government contract quality assurance.

246.408-70 Subsistence.

(a) The Surgeons General of the military departments are responsible for—

- (1) Acceptance criteria;
- (2) Technical requirements; and
- (3) Inspection procedures needed to assure wholesomeness of foods.

(b) The contracting office may designate any Federal activity, capable of assuring wholesomeness and quality in food, to perform quality assurance for subsistence contract items. The designation may—

- (1) Include medical service personnel of the military departments; and
- (2) Be on a reimbursable basis.

246.408-71 Aircraft.

(a) The Federal Aviation Administration (FAA) has certain responsibilities and prerogatives in connection with some commercial aircraft and of aircraft equipment and accessories (Pub. L. 85-726 (72 Stat 776, 49 U.S.C. 1423)). This includes the issuance of various

certificates applicable to design, manufacture, and airworthiness.

(b) FAA evaluations are not a substitute for normal DoD evaluations of the contractor's quality assurance measures. Actual records of FAA evaluations may be of use to the contract administration office (CAO) and should be used to their maximum advantage.

(c) The CAO shall ensure that the contractor possesses any required FAA certificates prior to acceptance.

[56 FR 36460, July 31, 1991, as amended at 71 FR 27647, May 12, 2006]

246.470 Government contract quality assurance actions.

246.470-1 Assessment of additional costs.

(a) Under the clause at FAR 52.246-2, Inspection of Supplies—Fixed-Price, after considering the factors in paragraph (c) of this subsection, the quality assurance representative (QAR) may believe that the assessment of additional costs is warranted. If so, the representative shall recommend that the contracting officer take the necessary action and provide a recommendation as to the amount of additional costs. Costs are based on the applicable Federal agency, foreign military sale, or public rate in effect at the time of the delay, reinspection, or retest.

(b) If the contracting officer agrees with the QAR, the contracting officer shall—

(1) Notify the contractor, in writing, of the determination to exercise the Government's right under the clause at FAR 52.246-2, Inspection of Supplies—Fixed-Price; and

(2) Demand payment of the costs in accordance with the collection procedures contained in FAR Subpart 32.6.

(c) In making a determination to assess additional costs, the contracting officer shall consider—

- (1) The frequency of delays, reinspection, or retest under both current and prior contracts;
- (2) The cause of such delay, reinspection, or retest; and
- (3) The expense of recovering the additional costs.

[71 FR 27647, May 12, 2006]